

BOARD OF APPEALS CASE NO. 5222

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BEFORE THE

APPLICANT: Parker Elliott

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ZONING HEARING EXAMINER

**REQUEST: Variance to construct an attached
garage within the required setbacks;
3316 Meadow Valley Drive, Abingdon**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 1/23/02 & 1/30/02

HEARING DATE: March 18, 2002

Record: 1/25/02 & 2/1/02

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Parker Elliott, is requesting a variance, pursuant to Section 267-36B, Table VII, of the Harford County Code, to construct an attached garage with the required 8 foot setback, total of 20 foot side yard setback (proposed 6.6 feet of 18.6 feet), in an R4/PRD Urban Residential, Planned Residential Development District.

The subject parcel is located at 3316 Meadow Valley Drive, Abingdon, Maryland 21009 and is more particularly identified on Tax Map 62, Grid 2A, Parcel 794, Lot 108. The parcel consists of 7,288 square feet, is zoned R4/PRD and is entirely within the First Election District.

Mr. Parker Elliott appeared and identified himself as the Applicant and property owner. The Applicant indicated that he wants to add a 1-1/2-car garage to his existing home that will be approximately 16 feet wide. The Applicant stated that a single car garage would fit without the need for a variance. He indicated that there are other locations on his property that would accommodate the garage he wants but that would require the removal of existing mature trees which the Applicant did not feel was desirable. The Applicant needs a garage bigger than a one car so he can keep 2 cars under roof. Upon questioning by the Hearing Examiner, the Applicant stated that there were no unique topographical conditions on his property and it was much like other parcels in the neighborhood. The witness did state that there were a number of 1 and 2 car garages in the neighborhood and used Attachment 10 of the Staff Report as examples of some of those.

Case No. 5222 – Parker Elliott

Mr. Dion Basnight appeared and testified that he lives at 3314 Meadow Valley Drive, next door to the Applicant. The witness stated that he has no objection to the placement of the garage at the proposed location.

Mr. Anthony McClune appeared as representative of the Department of Planning and Zoning. Mr. McClune indicated that the Department could not conclude that any topographical features existed on this property that created a hardship that would warrant the variance. In Mr. McClune's opinion, the Applicant's lot is not unlike other lots in the neighborhood. The Department recommends that the request be denied.

CONCLUSION:

The Applicant, Parker Elliott, is requesting a variance, pursuant to Section 267-36B, Table VII, of the Harford County Code, to construct an attached garage with the required 8 foot setback, total of 20 foot side yard setback (proposed 6.6 feet of 18.6 feet) in an R4/PRD Urban Residential, Planned Residential Development District.

Harford County Code Section 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

In order for an Applicant to meet the standards for the grant of a variance, the Applicant must first establish that there exists on his/her property unique topographical features that operate to create a need for the requested variance. The standard was succinctly set forth in Cromwell v Ward, 102 Md. App. 691 (1995), which stated:

"The Maryland Court of Special Appeals has provided guidance in matters of variance requests and described a two step analysis in determining whether such requests should be granted. According to the guidance provided by the Court, the variance process is a two-step sequential process:

Case No. 5222 – Parker Elliott

- 1. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is, in and of itself, unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to impact disproportionately upon the property. If this finding cannot be made, the process stops and the variance must be denied. If, however, the first step results in a supportive finding of uniqueness or unusualness, then the second step in the process is taken.**
- 2. The second step is a demonstration whether unreasonable hardship (or practical difficulty) results from the disproportionate impact of the ordinance caused by the property's uniqueness exists."**

In the instant case, the Applicant has failed to meet the threshold requirement for a variance to issue. His property is not unique topographically and conditions do not exist that create some hardship for the Applicant. While there are other houses that have garages, the photos on Attachment 10 show these to be either 1 or 2 car garages that were designed as integral to the house dimensions as opposed to a separately attached garage. Under the circumstances of this case, the Applicant has failed to establish any uniqueness and allowance of the requested variance would violate both the spirit and intent of the Zoning Code.

The Hearing Examiner recommends that the subject request be denied.

Date: APRIL 17, 2002

**William F. Casey
Zoning Hearing Examiner**